

Wednesday, 8 July 2020

By E-mail

Mr. John Saenz

Dear Mr. Mr. Saenz,

██████████ – Letter on ongoing Confidentiality and Restrictive Covenants obligations pursuant to the Zroblack Professional Services Agreement

We are writing to you in connection with your ongoing obligations and restrictions pursuant to the Professional Service Agreement dated 15 April 2019 and the Amendment No. 1 dated 1 August 2019, granting you a conditional and partial release by ██████████ (jointly: "ZroBlack Agreement"). The ZroBlack Agreement has been signed each time by you and by Mr. Villareal, both personally and on behalf of ZroBlack LLC ("ZroBlack").

While ██████████ trusts that you will honor all of your ongoing obligations, we would like to remind you of some of those obligations, more specifically the agreed Confidentiality and the restrictive covenants (the latter hereinafter referred to as: "Restrictive Covenants").

Confidentiality

Pursuant to Section 7 of the ZroBlack Agreement, which remains in full force and effect, you have agreed that all Deliverables, all Inventions and any information (such to include any ██████████ trade secrets) received by you in relation to the ZroBlack Agreement constitutes ██████████ 'Proprietary Information'.¹ You have acknowledged and agreed to hold in strict confidence and not to disclose the Proprietary Information to any other party.

¹ The agreed definition of 'Proprietary Information' is broad and includes all Deliverables, all Inventions and all other ██████████ and ZroBlack information including, without limitation, computer programs, technical drawings, algorithms, know-how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical, business, financial, customer and product development plans, forecasts, strategies and information) that Service Provider develops, learns or obtains in connection with the Services under the ZroBlack Agreement.

The Proprietary Information constitutes special, unique and valuable [REDACTED] property and as such all the parties to the ZroBlack Agreement have acknowledged and agreed that the Confidential Information is and shall always remain the exclusive property of [REDACTED] and its affiliates.

Past payments done to ZroBlack and/or you have been made expressly subject to these Confidentiality obligations being honoured. Any breach of this provision would constitute an immediate material breach under the Agreement. [REDACTED] has the right to recoup any past payments already done to ZroBlack and/or you and to recover any damages and/or losses as a consequences of such a material breach, such in addition to other legal remedies at its disposal.

Should you remain in the possession of any Proprietary Information, [REDACTED] hereby requests you to, pursuant to Clause 7.2 of the ZroBlack Agreement, promptly return any such Proprietary Information, including all items and any remaining copies containing or embodying Proprietary Information (and including, without limitation, all Deliverables and all work-in progress), with a complete return and a written confirmation of complete destruction of any remaining copies.

Restrictive Covenants

Pursuant to Section 9 of the ZroBlack Agreement, you have moreover expressly agreed to not, directly or indirectly, engage in any competing business activities, whether this in the form of any development, marketing, sales, licenses, partnerships or any other business association or competing business activities in relation to any of the products, services, Deliverables, Inventions or technology pursuant to the ZroBlack Agreement.²

Finally, Section 9 of the ZroBlack Agreement also includes ongoing Non-Solicit and Non-Disparagements obligations which apply to both you and the other parties to the ZroBlack Agreement.

The above Confidentiality and Restrictive Covenants apply for for a total term of 5 years as of the effective date of the ZroBlack Agreement, therefore until 15 April 2024.

This letter serves as a reminder and if applicable, a request to you to comply with the above obligations and I advise you that [REDACTED] takes them very seriously and will, if necessary, pursue all available legal remedies such including [REDACTED]'s right to initiate injunctive proceeding and recoup and claim any further damages resulting from such a breach.

Please inform me if any of the above is unclear to you and feel free to contact me if you have any questions.

² The scope of the Non-Compete restriction is likewise broad, and includes any indirect or direct activities, any cause to or permit to cause to, any investments made, any consultancy or any rendering of services, in any form or in any association that in any way competes with the technology under to the ZroBlack Agreement.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In copy:

David Vanderhider, Attorney-at-Law; [REDACTED]

ZroBlack LLC; Mr. Jonathan Villareal; [REDACTED]